IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9537 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANGUBHAI RAISINGBHAI DHODIA PATEL

Versus

COMMISSIONER OF POLICE SURAT CITY

Appearance:

HL PATEL ADVOCATES for the Petitioner.

Mr.M.K.Patel, Assistant GOVERNMENT PLEADER,

for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/03/2003

ORAL JUDGEMENT

By filing this petition, the petitioner-detenu has challenged his detention order dated 28.8.2002, by which he is detained as a 'bootlegger' under the provisions of the Gujarat Prevention of Anti-social

Activities Act, 1985 ("PASA", for short). In the grounds of detention of the same date, there is a reference about three pending criminal cases against the petitioner under the Bombay Prohibition Act. The Authority, after considering the cases registered against the petitioner, detained him under PASA as a bootlegger.

At the time of hearing of this petition, it is submitted by the learned Advocate for the petitioner that even though the petitioner made a representation on 9.9.2002 and which was received by the Jail Authority on 11.9.2002, the same was decided on 17.9.2002 and, therefore, there is a delay in deciding the representation at the end of the State Government. The petitioner has also placed on record a copy of the communication received by him from the Home Department on 18th September, 2002. In the body of the petition also, the petitioner has taken the point about delay. Of course, he has not given specific dates. However, point of delay is taken in ground No.17.

There is no reply in this petition either from the State Government or the Detaining Authority. None of the points raised by the petitioner is controverted. The State has also not denied the fact that the representation of the petitioner was not decided expeditiously and there is no reply on the record. In that view of the matter, since the delay in deciding the representation of the petitioner is not explained by the State Government, the petition is required to be allowed.

This petition is accordingly allowed. The order of detention is quashed and set aside. It is ordered that the detenu be released forthwith unless he is required in connection with any other case. Rule is made absolute.

28th March, 2003 (P.B. Majmudar, J.)

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(apj)